

1944 Supplement
To
Mason's Minnesota Statutes, 1927
and
Mason's 1940 Supplement

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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CHAPTER 20

Inspector of Oils

3773. Inspection districts—Compensation of inspectors. [Repealed.]

Repealed. Laws 1941, c. 495.

3773-1. Appointment and removal of deputy, etc.

If deputy oil inspector discharged before Civil Service Act went into effect had a civil service status under existing statute, such status was abolished by going into effect of such act and mandamus would not lie to enforce such right, though petition was filed and alternative writ was issued prior to effective date. *Reed v. T.*, 209M 348, 296NW535.

3784. Statements of amounts due, etc.

Gasoline taxes are a direct charge upon "distributor", and a three percent allowance for evaporation and loss fixes total amount of tax, and state cannot require dis-

tributor to account for taxes paid to it by retailer in excess of that amount, and such method of taxation is constitutional. *Arneson v. W. H. Barber Co.*, 210M42, 297 NW335. See *Dun. Dig.* 9142.

3787-1. Definitions. [Repealed.]

Repealed. Laws 1941, c. 495.

A railroad is not negligent for failure to warn a spectator, standing on a highway witnessing a fire caused by a wreck, of the danger that a tank car full of gasoline engulfed in the flames is likely to explode, risk being obvious. *Wiseman v. N. P. Ry. Co.*, 214M101, 7NW (2d)672, 13NCCA(NS)526. See *Dun. Dig.* 3699.

3787-2 to 3787-21. [Repealed.]

Repealed. Laws 1941, c. 495.

CHAPTER 20A

Inspection of Petroleum Products and other Combustible Fluids

3787-25. Meanings of particular words and phrases.

—Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases shall, for the purpose of this act and *Mason's Supplement 1940, Section 2720-71*, as amended, be given the meanings hereinafter subjoined to them:

Subdivision 1. "Petroleum products" means gasoline fuel oil and farm tractor fuel.

Subdivision 2. "Gasoline" means any petroleum product or other substance which is capable of use as a carburant in internal combustion engines and which has a flash point of less than 100 degrees Fahrenheit when tested with a Tagliabue closed cup tester or an initial boiling point of less than 300 degrees Fahrenheit or a 95 per cent distillation point of less than 464 degrees Fahrenheit when tested by the methods of the American Society for Testing Materials, except farm tractor fuels and special use fuel as defined by law, and except fuel oil or kerosene when the ten per cent distillation point is more than 347 degrees Fahrenheit.

Subdivision 3. "Fuel oil" means any petroleum product other than gasoline as herein defined which is received in this state for distribution to retail consumers and which when tested with a Cleveland open cup tester shall not flash below 120 degrees Fahrenheit and which has a viscosity of not more than 50 to 100 degrees Fahrenheit by the Saybolt universal process, and any product designated for such use outside this range which is to be blended with other products or processed to produce a resulting product coming within this range. (Act Apr. 28, 1941, c. 495, §1; as amended Apr. 6, 1943, c. 320, §1.)

Subdivision 4. "Distributor" means any person who (1) brings or causes to be brought into this state petroleum products or (2) produces, manufactures, refines or blends petroleum products in this state or (3) receives petroleum products from a refinery, marine terminal or pipeline terminal in this state, for storage and subsequent sale and distribution by tank cars or tank trucks or both.

Subdivision 5. "Person" means any individual, firm, trust, estate, partnership, association, cooperative association, joint stock company or corporation, public or private, or any representative appointed by order of any court.

Subdivision 6. "Dealer" means any person except a distributor, engaged in the business of buying and selling gasoline for use in motor vehicles.

Subdivision 7. "Blender" means any person who mixes together any petroleum product with any other

petroleum product or other substance to produce gasoline.

Subdivision 8. "Motor vehicles used on the public highways of this state" means every vehicle operated upon the highways of this state the power for the operation of which is produced or generated in an internal combustion engine, but does not include tractors used solely for agricultural purposes. (Act Apr. 28, 1941, c. 495, §1; as amended Apr. 6, 1943, c. 320, §2.)

Subdivision 9. "For use in motor vehicles" means for use in producing or generating power for propelling motor vehicles on the public highways of this state or in machinery operated on the public highways of this state for the purpose of constructing, reconstructing or maintaining such public highways. (Act Apr. 28, 1941, c. 495, §1; as amended Apr. 6, 1943, c. 320, §3.)

Subdivision 10. "Commissioner" means the commissioner of taxation of the state of Minnesota.

Subdivision 11. Petroleum products brought into this state shall be deemed to be "received" in this state at the time and place where the same shall be unloaded by the person who at such time shall be the owner thereof; provided, however, that petroleum products produced, manufactured, refined or blended, at a refinery in this state and stored thereat, or brought into the state by boat or barge or like form of transportation and delivered at a marine terminal in this state for storage, or brought into the state by pipeline and delivered at a pipeline terminal in this state for storage, shall not be considered received until loaded at such refinery, marine terminal or pipeline terminal into railroad tank cars, tank trucks, tank wagons, transports or other vehicles for delivery or shipment to points within this state. Petroleum products produced, manufactured, refined or blended at a refinery in this state and petroleum products stored at a marine terminal or a pipeline terminal in this state may be sold, shipped or delivered to distributors who are the holders of unrevoked distributors' licenses issued by the commissioner as in this act provided without liability on the part of the seller for the gasoline tax and inspection fees, but such purchasers shall be liable for the gasoline tax and inspection fees on such petroleum products and shall for the purpose of this act be deemed to be the distributors of the petroleum products so received. (Act Apr. 28, 1941, c. 495, §1; Apr. 6, 1943, c. 320, §§1-3.)

[296.01]

Subd. 5.

State highway department is not "person" subject to tax. *Op. Atty. Gen.*, (324e), Oct. 28, 1941.